

## WHAT IS A CONTROVERSY? (Pub. 3319, Page 2)

The term "**controversies**" includes:

- An IRS account, collection, examination, or Appeals matter;
- Representation on a federal tax matter in federal courts, including the United States Tax Court;
- Representation or *referral*\* of a low income taxpayer involved in a state or local tax controversy, when the clinic is representing or referring that taxpayer in a federal tax controversy;
- Provision of assistance to a non-filer in the preparation of prior year return(s);
- Provision of assistance to a victim of identify theft on a federal or state tax matter; and
- Preparation of an amended return, if such assistance is necessary to resolve a controversy for which an LITC is representing a taxpayer.

\*The "**referral**" activity for which grant funds may be expended is the referral of low income taxpayers to a ***pro bono*** panel.

## What is a ***pro bono*** panel? (Pub. 3319, Page 2)

- I. Examples of *pro bono* panels to which taxpayers may be referred include:
  - A panel of qualified representatives maintained by the clinic to whom the clinic refers matters and which agrees to provide *pro bono* representation to low income taxpayers;
  - A panel maintained by a state bar association which makes referrals, for free or for a nominal fee, to qualified representatives who have agreed to provide *pro bono* representation in legal matters; and
  - A panel maintained by a state or local society of accountants which makes referrals, for free or for a nominal fee, to qualified representatives who have agreed to provide *pro bono* assistance to taxpayers.

- II. A “**qualified representative**” is any individual who is authorized to practice before the IRS (*i.e.*, attorney, certified public accountant, enrolled agent) or applicable court. Any controversy clinic that does not have a staff member who is admitted to practice before the United States Tax Court *must* have a *pro bono* panel member who is admitted to practice before the United State Tax Court and to whom it can refer litigation matters.
- III. Programs that inform ESL taxpayers about their federal tax rights and responsibilities must maintain a *pro bono* referral panel to which they may refer federal, state, and local tax controversies. An ESL clinic can refer taxpayers to another LITC, however controversy funding will not be awarded to an organization that is solely making referrals to another LITC.

### **What is ancillary tax return preparation? (Pub. 3319, page 3)**

The term “ancillary” means incidental. That is, the LITC’s program must focus on outreach and education and not tax return preparation. Clinics that engage in ancillary tax preparation cannot charge a fee (even if it is a nominal fee) for this service. ***Tax preparation assistance that is directly related to a controversy is not considered “ancillary” and is permitted under the definition of “controversy.”***

### **Controversy Clinic Requirements (Pub. 3319, Page 4)**

- *90/250 Income Requirement.* At least 90 percent of taxpayers represented or referred must have incomes that do not exceed 250 percent of the poverty guidelines published annually by HHS.
- A clinic must use the official poverty guidelines to determine whether a client seeking representation is a low income client for purposes of LITC Program funding. A clinic must base its determination of whether a taxpayer satisfies the income requirement on current income information. Changes in financial status during representation do not disqualify clients from continuing to receive clinic representation. A clinic may consider the taxpayer’s current year return in determining the taxpayer’s income, as defined below.
- For purposes of determining the total number of taxpayers represented or referred in controversies with the IRS, include both those who do and do not meet the income requirements. Preparation of a joint return counts as

**two** taxpayers assisted. If only one spouse on a joint return is represented or referred, the represented spouse counts as **one** taxpayer assisted.

- **Current Poverty Guidelines** Applicants must adopt the new income ceilings for determining LITC low income representation eligibility within 30 days from the date of publication of the HHS poverty guidelines in the *Federal Register*. These income ceilings change annually.

**Based on the poverty guidelines published on January 24, 2006**, the income ceilings for low income representation are as follows:

Size of Family Unit – CONUS, DC, PR Income Ceiling (250% of Poverty Guidelines) <sup>1</sup>	Size of Family Unit - Alaska Income Ceiling (250% of Poverty Guidelines) <sup>2</sup>	Size of Family Unit - Hawaii Income Ceiling (250% of Poverty Guidelines) <sup>3</sup>
1 \$24,500	1 \$30,625	1 \$28,175
2 \$33,000	2 \$41,250	2 \$37,950
3 \$41,500	3 \$51,875	3 \$47,725
4 \$50,000	4 \$62,500	4 \$57,500
5 \$58,500	5 \$73,125	5 \$67,275

1. For family units with more than five members add \$8,500 for each additional member.

2. For Alaska, family units with more than five members add \$10,625 for each additional member.

3. For Hawaii, family units with more than five members add \$9,775 for each additional member.

- **Amount in Controversy.** The amount in controversy for any taxable year *generally* must not exceed the amount specified in IRC § 7463 (currently \$50,000). The amount in controversy includes penalties, but does not include interest. If a clinic takes on a case in which the amount in controversy exceeds the amount specified in IRC § 7463, the clinic must provide an explanation in its interim and annual reports of why the case was accepted (Pub. 3319, Page 6).

## SITE ASSISTANCE VISITS (Pub. 3319, Page 25)

- The LITC Program Office will periodically perform on-site assistance visits to selected clinics. Site assistance visits are a means of providing reliable information to ensure grant funds are being used appropriately and effectively and that the clinic is complying with the terms and conditions of the LITC grant agreement and Program guidelines.
- These visits provide an opportunity to share information about technical issues and identify areas where clinic services can be improved. Site assistance visits also provide an opportunity for clinic personnel to ask questions and share information about problems they may be encountering and to identify best practices that can be shared with all LITCs.
- During site assistance visits, the review process may include reviews of intake procedures, systems for recording referrals of clients, communication and publicity plan, demographics/population information, case statistics and analysis. Prior to the assistance visit, the clinic will receive a list of items and topics to be reviewed. Additional items may be requested during or after the assistance visit. **This list may be derived from the standards for clinic operation (Pub. 3319, Pages 12 – 15).** As part of monitoring and evaluating clinic activities, however, the LITC Program Office will be mindful of the clinic's requirement to protect privileged information.
- New Clinics - All new clinics can expect to receive a site assistance visit from the LITC Program Office staff within the first six months of the grant cycle. Clinics will be contacted prior to the date of the visit to discuss specific items that may be reviewed.

This initial visit ensures that the clinic is operational and is not experiencing any major difficulties. If the Program Office identifies problems during the initial visit, the Program Office will schedule an in-depth follow-up visit.

- Outreach – LITCs are responsible for effectively publicizing the program and must identify their target audience and develop and describe the outreach strategy to reach that audience. LITCs should also implement a process that tracks how participants hear about the program and the services offered.
- Publicity materials, posters and announcements may not mention tax return preparation or refund claim assistance.